

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

IN RE: ) CASE NO. 20-60423  
)  
SARAH E. WEBER ) CHAPTER 13  
)  
DEBTOR ) JUDGE RUSS KENDIG  
)  
) MOTION OF  
) TAX EASE OHIO, LLC  
) FOR RELIEF FROM STAY  
)  
) **4323 ORCHARD DALE DRIVE NW,**  
) **CANTON, OH 44709**

Tax Ease Ohio, LLC (the “Movant”) moves this Court, under §§ 361, 362, and 363, and other sections of Title 11 of the United States Code, and under Federal Rules of Bankruptcy Procedure 4001 and 6007 and under Local Bankruptcy Rule 4001-1 for an Order conditioning, modifying or dissolving the automatic stay imposed by Bankruptcy Code § 362.

**MEMORANDUM IN SUPPORT**

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.
2. On October 24, 2014, TAX EASE OHIO, LLC purchased Tax Lien’s totaling \$45,678.48. \$11,713.82 for the 2010 property taxes, \$2,501.79 for the 2014 property taxes, \$2,864.27 for the 2015 property taxes, \$2,954.80 for the 2016 property taxes and \$2,975.93 for the 2017 property taxes. Such liens are evidenced by Tax Certificates recorded on November 4, 2017, October 9, 2015, December 7, 2016, October 25, 2017 and November 9, 2018, copies of which are attached as Exhibit A.
3. The Tax Certificates granted a lien on the property located at 4323 ORCHARD DALE DRIVE NW, CANTON, OH 44709 owned by SARAH E. WEBER (the “Collateral”). The Collateral is more fully described in the Tax Lien (check

one):

☐ attached as Exhibit B;

OR

☒ contained in the Tax Certificates, attached as Exhibit A.

4. The lien created by the Tax Lien was duly perfected by:

☒ Filing of the Tax Lien's in the office of the Stark County Recorder on November 4, 2017, October 9, 2015, December 7, 2016, October 25, 2017 and November 9, 2018.

☐ Filing of the UCC-1 Financing Statement in the office of \_\_\_\_\_ on \_\_\_\_\_.

☐ Notation of the lien on the certificate of title.

☐ Other (state with particularity) \_\_\_\_\_.

A copy of the recorded Security Agreement, UCC-1 Financing Statement, Certificate of Title or other document, as applicable, is attached as Exhibit B. Based on Stark County Recorder, the lien is the 2nd lien on the Collateral.

5. The entity in possession of the original Tax Certificates as of the date of this motion, is Tax Ease Ohio, LLC.

6. The entity servicing the loan is: Tax Ease Ohio, LLC.

7. The Tax Certificates was transferred, as evidenced by the following:

a. If the Collateral is real estate:

i. Under Uniform Commercial Code § 3-203(a) as applicable under state law in effect where the property is located, from the original lender (check only one):

☒ N/A.

OR

☐ By endorsement on the Note, payable to \_\_\_\_\_.

OR

☐ By blank endorsement on the Note, payable to \_\_\_\_\_.

OR

☐ By allonge attached to the Note, payable to \_\_\_\_\_.

OR

☐ By blank allonge, attached to the Note.

OR

☐ The Note is not endorsed to the Movant, or is not endorsed in blank with an allegation that the Movant is in possession of the original Note. The factual and legal basis upon which the Movant is entitled to bring this motion is (explain with particularity and attach supporting documentation):\_\_\_\_\_.

OR

☐ By endorsement on the Note or by allonge attached to the Note, through a power of attorney. If this box is checked, a copy of the power of attorney is attached as Exhibit \_\_\_\_\_. Explain why it provides Movant the authority to endorse the Note: \_\_\_\_\_.

- ii. Under Uniform Commercial Code § 3-203(a) as applicable under state law in effect where the property is located, from the \_\_\_\_\_ to \_\_\_\_\_
- iii. A court has already determined that Movant has the ability to enforce the Note with a judgment dated \_\_\_\_\_ in the \_\_\_\_\_. A copy of the judgment is attached at Exhibit \_\_\_\_\_.
- iv. Other \_\_\_\_\_ [explain].

b. If the Collateral is not real estate (check one):

☒ N/A.

OR

☐ From the original lender to \_\_\_\_\_ by \_\_\_\_\_.

8. The Tax Lien was transferred as follows:

☒ N/A.

OR

☐ From the original lender, mortgagee, or mortgagee's nominee on to \_\_\_\_\_. The transfer is evidenced by the document(s) attached to this Motion as Exhibit \_\_\_\_\_.

9. The value of the Collateral is \$119,700.00. This valuation is based on County Auditor's Office.

10. As of April 2, 2020, there is currently due and owing on the Tax Certificates the outstanding balance of \$45,678.48, plus interest accruing thereon at the rate of 17.5 and 18.0 percent per annua described in more detail on the worksheet. The total provided in this paragraph cannot be relied upon as a payoff quotation.

11. The amount due and owing on the Tax Certificates as set forth in paragraph 10 does not include a credit for the sum held in a suspense account by the Movant. The amount of the credit is \$N/A.
12. Other parties known to have an interest in the Collateral besides the debtor(s), the Movant, and the trustee are (check all that apply):
- ☐ N/A.
  - ☒ The Stark County Treasurer, for real estate taxes, in the amount of \$3,012.00.
  - ☐ Co-Owners, if applicable
  - ☐ Any other party holding a lien, if applicable
13. The Movant is entitled to relief from the automatic stay under Bankruptcy Code § 362(d) for these reason(s) (check all that apply):
- ☐ Debtor has failed to provide adequate protection for the lien held by the Movant for these reasons: \_\_\_\_\_.
  - ☐ Debtor has failed to keep the Collateral insured as required by the Security Agreement.
  - ☐ Debtor has failed to keep current the real estate taxes owed on the Collateral.
  - ☐ Debtor has failed to make periodic payments to Movant since the commencement of this bankruptcy case for the months of \_\_\_\_\_, which unpaid payments are in the aggregate amount of \$ \_\_\_\_\_ through \_\_\_\_\_. The total provided in this paragraph cannot be relied upon as a post-petition reinstatement quotation.
  - ☐ Debtor is delinquent in funding the plan, and therefore the trustee has failed to make periodic payments to Movant since the commencement of this bankruptcy case for the months of \_\_\_\_\_, which unpaid payments are in the aggregate amount of \$ \_\_\_\_\_ through \_\_\_\_\_. The total provided in this paragraph cannot be relied upon as a post-petition reinstatement quotation.
  - ☐ Debtor has no equity in the Collateral, because the Collateral is valued at \$ \_\_\_\_\_, and including the Movant's lien, there are liens in an aggregate amount of \$ \_\_\_\_\_ on the Collateral.
  - ☐ Debtor's plan provides for surrender of the Collateral.

☐ The property is not necessary to an effective reorganization because \_\_\_\_\_.

☒ Other cause (set forth with specificity): Debtor acquired ownership of the property in violation of Ohio's Lis Pendens statute (Ohio Revised Code section 2703.26). Therefore, Debtor did not obtain a legal interest in the real estate and therefore the real estate is not an asset of the estate or subject to the Chapter 13 proceedings..

14. Movant has completed the worksheet, attached as Exhibit C.

WHEREFORE, Movant prays for an order from the Court granting Movant relief from the automatic stay of Bankruptcy Code § 362 to permit Movant to proceed under applicable non-bankruptcy law.

Respectfully submitted,

/s/ Milos Gvozdenovic

Milos Gvozdenovic (0077969)  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that on April 24, 2020, a true and correct copy of the foregoing Motion of Tax Ease Ohio, LLC for Relief from the Automatic Stay was served:  
Via the Court's electronic case filing system on the following who are listed on the Court's Electronic Mail Notice List:

Y. Eric Holtz, Attorney for Debtor at yeholtz@amourgis.com

Dynele L Schinker-Kuharich, Trustee at DLSK@Chapter13Canton.com

OFFICE OF THE UNITED STATES TRUSTEE @usdoj.gov

and by regular U.S. Mail, postage prepaid, to:

SARAH E. WEBER  
4323 Orchard Dale Drive NW  
Canton, OH 44709

\_\_\_\_\_  
/s/ Milos Gvozdenovic  
Milos Gvozdenovic (0077969)  
Weltman, Weinberg & Reis Co., L.P.A.  
Attorney for Tax Ease Ohio, LLC